THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/B) No. 1343 of 2001
Old No. CMWP No. 40047 of 1998

1. Sanjeev Kumar Sawhney
2. Bhushan Kumar Sawhney
   Sons of Somnath Sawhney
   Both residents of Chakrata Road, Opp. L.I.C. Building, Dehradun.

… **Petitioners.**

Versus

1. IIIrd Addl. District Judge, Dehradun,
2. Addl. Civil Judge, Junior Division, Dehradun,
3. State of U.P. through Collector, Dehradun,
4. Executive Engineer, P.W.D. Dehradun.

… **Respondents.**

With

Writ Petition (M/B) No. 1344 of 2001
Old No. CMWP No. 40045 of 1998

Kamal Kumar Sawhney
Son of Somnath Sawhney
Resident of Chakrata Road, Opp. L.I.C. Building,
Dehradun. … **Petitioner.**

Versus

1. IIIrd Addl. District Judge, Dehradun,
2. Addl. Civil Judge, Junior Division, Dehradun,
3. State of U.P. through Collector, Dehradun,
4. Executive Engineer, P.W.D. Dehradun.

… **Respondents.**

Sri Ashok Aggarwal, learned counsel for the petitioner.
Sri Nand Prasad learned counsel for the respondents.

Dated February 20, 2006.

Hon'ble B.S.Verma, J.

Heard Sri Ashok Aggarwal, learned counsel for the petitioners and Sri Nand Prasad, learned Standing Counsel.

Since in both the writ petitions common points are involved, therefore, they are being taken up together for disposal.

The petitioners have filed these writ petitions challenging the orders dated 2.11.1998 and 20.4.96 passed by the nos. 1 and 2 respectively praying for issue of a writ or direction in the nature of mandamus directing the respondents not to evict the petitioners except in accordance with the procedure of law on the ground that the possession of the petitioners on the disputed property was permissive and they are not trespassers; that the possession of the petitioners was on the basis of valid Patta and they had deposited the lease rent.

It reveals from the record that the petitioners filed Civil Suits Nos. 69 of 1996 and Suit No. 68 of 1996 against the state of U.P. and executive Engineer, Public Works Department, Dehradun for permanent injunction. Along with the plaint, application for ad interim injunction was also filed. The application of interim injunction was rejected vide order dated 20-4-1996 passed in both the suits by the respondent no.2, Civil Judge (Jr.Div.) Dehradun. Aggrieved by the said order, the plaintiff-petitioners went up in appeal under Order 43, Rule 1(r) of the C.P.C. before the respondent no.1. The Misc. Civil Appeal Nos. 65 of 1996 and 64 of 1996 preferred by the petitioners too were dismissed by the respondent no.1 vide judgment and order dated 2.11.1998 which gave rise to these writ petitions.

In the course of arguments, the learned counsel for the petitioners submitted that the ends of justice would be served if a direction is issued to the respondent no.2 for expeditious disposal within time bound period with the direction that the petitioners shall not be evicted from the property in dispute till the decision of the civil suits.

This Court on 26.11.1998 has already passed interim order to the effect that “until further orders, the petitioners shall not be evicted form the property in dispute.” The proceedings of the suits were not stayed.

Considering the facts and the circumstances of the case, it is expedient in the interest of justice to direct the respondent no. 2 to decide the civil suits expeditiously.

Accordingly, I direct the respondent no.2 to decide the Civil Suit No. 69 of 1996, Sanjeev Kumar Sahani and another Vs. U.P.State and another and Suit No. 68 of 1996, Kamal Kumar Sahani Vs. U.P.State and another expeditiously preferably within a period of six months. Till then, the interim order dated 26.11.1998 shall remain in force and the petitioners shall not be evicted from the property in dispute.

With the above observations, both the writ petitions are disposed of finally.

(B.S.Verma, J.)

20.02.2006.
RCP